

IN THE SUPREME COURT OF TENNESSEE

SPECIAL WORKERS' COMPENSATION APPEALS PANEL

AT NASHVILLE

(January 23, 1997 Session)

FILED
May 16, 1997
Cecil W. Crowson
Appellate Court Clerk

DONALD GROTON, by next friend)
and wife, LINDA GROTON, and)
LINDA GROTON for KRISTINA)
LYNN GROTON, a minor,)

Plaintiff/Appellee,)

VS.)

THE TRAVELERS INSURANCE)
COMPANY,)

Defendant/Appellant.)

WILSON CIRCUIT

Hon. Bobby Capers,
Judge

No. 01S01-9607-CV-00154

For the Appellant:

Wm. Ritchie Pigue
William G. McCaskill, Jr.
TAYLOR, PHILBIN, PIGUE,
MARCHETTI & BENNETT
Nashville, Tennessee

For the Appellee:

William L. Underhill
Andrew J. Blackwell, III
Madison, Tennessee

MEMORANDUM OPINION

Members of Panel:

Adolpho A. Birch, Jr., Chief Justice, Supreme Court
Robert S. Brandt, Senior Judge
Joe C. Loser, Jr., Special Judge

REVERSED

Brandt, Senior Judge

MEMORANDUM OPINION

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting of findings of fact and conclusions of law.

This Court is once again called upon to decide whether an injury sustained en route to work is compensable. We conclude that it is not and reverse the trial court's finding that it is.

Regrettably, this case involves more than an injury. Donald Groton died from injuries he sustained in a car wreck while traveling to work on January 14, 1994. He worked for John Coleman Hayes, P.C. an engineering firm under contract with Nashville's airport authority to supervise noise abatement modifications being made to homes in the Antioch and Donelson neighborhoods close to the airport. Groton was one of two inspectors who examined the work of the contractors.

He used his own vehicle in his work. The employer paid Groton mileage for driving from the office to job sites and from one job site to another. The employer did not pay Groton for driving from his home to the office or to the first job site of the day if Groton went there first. Likewise, the employer did not pay Groton for travel away from the office or from the last job site at the end of the work day.

On the date of the accident, Groton did not report for duty at either the office or a job site as usual. James Michael Smith, John Coleman Hayes's construction manager, called Groton the day before and instructed him to go to a job site of a sister company, John Coleman Hayes Construction Company. Smith needed some surveying work done and Groton knew how to do it.

The site was in Goodlettsville, far away from the job sites around the airport, but Groton had been to the site before and knew how to get there. Smith gave him no instructions on how to get there. The accident occurred while Groton was driving his vehicle from his home in Lebanon to the Goodlettsville site.

As a general rule, workers injured while traveling to and from work in their own vehicles at their own expense are not entitled to workers' compensation. *Lollar v. Wal-Mart Stores, Inc.*, 767 S.W.2d 143, 144 (Tenn. 1989). There are some recognized exceptions to this rule, such as when the worker is actually on the employer's premises, but none of those exceptions apply in this case. Groton was simply going to work when he was injured. He was going to a different job site than usual, but he was simply traveling to work nevertheless.

For that reason, we conclude that the judgment of the trial court must be reversed. Costs are taxed to the plaintiff-appellee.

Robert S. Brandt, Senior Judge

CONCUR:

Adolpho A. Birch, Jr., Chief Justice

Joe C. Loser, Jr., Special Judge

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AND WIFE, LINDA GROTON, AND	(
LINDA GROTON FOR KRISTINA	(
LYNN GROTON, A MINOR,	(
	(
Plaintiff-Appellee,	(
	(
v.	(Wilson Circuit, No. 9239
	(
	(Appeal No. 01S01-9607-CV-00154
	(
THE TRAVELERS INSURANCE	(Hon. Bobby Capers, Judge
COMPANY,	(
	(
Defendant-Appellant.	(REVERSED.

JUDGMENT ORDER

This case is before the Court upon motion for review pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the motion for review is not well taken and should be denied; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by the plaintiff-appellee, for which execution may issue if necessary.

IT IS SO ORDERED this 16th day of May, 1997.

PER CURIAM

Birch, J. - Not participating.